

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BELTON BROOKS,)	
)	
Plaintiff,)	4:06cv3123
)	
vs.)	MEMORANDUM AND ORDER
)	
WARNER-WELLCOME, now known as)	
WARNER-LAMBERT COMPANY, LLC,)	
)	
Defendant.)	

This matter is before the court on filing no. 8, the defendant's Motion to Dismiss. The plaintiff, a state prisoner convicted of a crime involving methamphetamine, filed this action in the District Court of Lancaster County, Nebraska. The plaintiff seeks damages from the defendant on theories of product liability, failure to warn and negligence. Because of the plaintiff's methamphetamine addiction, the plaintiff had a history of extracting and ingesting an ingredient in the defendant's cold remedy product, Sudafed.

The defendant removed the action to this court and now moves to dismiss the complaint on the grounds that the complaint fails to state a claim upon which relief may be granted; that the claims are barred by the applicable statute of limitations; and that to shift the responsibility to the defendant for the plaintiff's criminal conduct would violate public policy. The plaintiff has not responded to the motion.

Not having heard from the plaintiff, the defendant's arguments appear reasonable. However, the plaintiff shall have until August 18, 2006 to respond to the defendant's Motion to Dismiss. In the absence of a timely and sufficient response, filing no. 8, the defendant's Motion to Dismiss, will be granted.

SO ORDERED.

July 21, 2006.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge